IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

First Appeal No. 206 of 2001
(Old No. 825 of 1999)

1. State of U.P. through Collector
   Udham Singh Nagar
2. The Special Land Acquisition Officer
   Udham Singh Nagar ...Appellants

Vs

Sri Sugreeva Lal ....Respondents

Sri Nand Prasad, learned Standing Counsel for the State

Hon'ble B.C. Kandpal, J.

This appeal has been filed by the State against the judgment and decree dated 03.01.1998 passed by IInd Additional District Judge, Nainital in Land Acquisition Reference No. 60 of 1988.

2. Brief facts of the case are that the controversy related to the acquisition of land by the Central Government for constructing broad railway line from Rampur to Haldwani. The Central Government acquired total 26.49 acres of land in which Sugreeva Lal has 19.8.0 acres of land.

3. In the above circumstance, the Land Acquisition Officer after hearing both the parties awarded compensation @ Rs. 4,715.44 per bigha.

4. Feeling aggrieved by the aforesaid award the claimant/respondent filed reference under Section 18 of the Land Acquisition Act in which the claimant compensation @ Rs. 50,000/- per bigha. The collector dismissed the references filed by the claimants with the findings that the land in question is agricultural land while the sale deed submitted by the claimants were of Rudrapur, Kashipur, the Land Acquisition Officer has rightly assessed the value of land in question @ Rs. 4,715.44 per bigas.

5. Thereafter, against the aforesaid order, the claimants filed a reference before the IInd Additional District Judge, Nainital which was partly allowed by the court concerned and modify the award of compensation upto the extent @ Rs. 6,000/- per bighas vide judgment and decree dated 03.01.1998.

6. Feeling aggrieved by the aforesaid judgment and decree, the State filed this first appeal before the Allahabad High Court which has been transferred to this Court, for disposal, after creation of new State.

7. Heard Sri Nand Prasad, learned counsel for the State and perused the record.

8. The first point which is to be considered here is that while deciding the reference, the court below has framed two issues which reads as under:-

1. Whether the compensation award is inadequate?
2. To what amount of compensation, if any, is the claimant entitled?

9. Both the issues are interconnected with each other, therefore, the court below has decided both the issues together. The court below after hearing learned counsel for the parties and perusing the entire material available on record came to the conclusion that the compensation awarded by the Land Acquisition Officer @ Rs. 4715.44 per bigha is inadequate and thereafter he has awarded the same @ Rs. 6,000/- per bigha to the claimants vide order dated 03.01.1998.

10. The evidence on record show that the value assessed by the Land Acquisition Officer is very low. P.W. 1 Jeewan Das has deposed in his testimony that he sold the land @ Rs. 90,000/- per Bigha but he has not stated that in which year he sold that land. The sale deed paper No. 17-C which was filed on the record pertains to the year 1986 and it shows that the land was sold @ Rs. 48,000/- per Bigha, but this sale deed does not indicate that what was the rate for per Bigha of the land sold. The aforesaid sale deed thus loses its importance in calculating the market value. The notification U/S of the Act in this case was issued in the year 1982 and on this ground also this sale deed does not come within the purview of the reasonable time.

11. Another sale deed which is on the record is paper No. 38-Ka which pertains for the year 1980 and it shows that the land was sold through this sale deed @ of Rs. 6,878=18 P. per Bigha.

12. Another sale deed 16-C pertains to the year 1980 which also shows that the land was sold @ Rs. 6,176/- per Bigha. Paper No.20-C is another sale deed which shows that in the year 1982 the land was sold @ Rs. 4715/- per Bigha. Paper No. 43-C shows that the land was sold @ Rs. 8,432/- per Bigha in the year 1986. Therefore, in determining the market value of the land the price paid within reasonable time from the date of acquisition of the land would be the best evidence for ascertaining the price. The possession of the land in this case was delivered on 8-10-1986, therefore, the reasonable period would be two years back and the sale deed between 1980 to 1984 would be considered for determining the market value of the land in question. Therefore, applying this principle the sale deed paper No. 32-Kha dated 31-7-1980 which indicates that the land was sold @ Rs. 6,818/- per

Bigha and paper No. 33-Kha sale deed dated 10-6-1980 which shows that the land was sold @ Rs. 6,176/- per Bigha and 20-C sale deed dated 8-2-82 by which the land was sold @ Rs. 4715/- per Bigha.

13. Thus the average rate keeping in view the aforesaid sale deeds comes to Rs. 6,000/- per Bigha.

14. D.W.1, Abdul Bahab is the Patwari and his evidence shows that the land was agricultural land and no Abadi was there, therefore, keeping in view the aforesaid all the evidence and the circumstances of the case, the court below had rightly held that the rate of compensation comes to Rs. 6000/- per Bigha, which would be just and adequate.

15. I do not find any ground for interference in the judgment and decree passed by the court below. The lower court has considered all the factual aspects of the matter and considered the sale deed as well as market value of the land in question and rightly had that the claimants were awarded @ Rs. 6,000/- per bigha. I do not find any illegality, impropriety or incorrectness in the impugned judgment and decree passed by the court below.

16. Thus, the first appeal lacks merit and is liable to be dismissed.

17. Accordingly, the first appeal is dismissed.

(B.C. Kandpal, J.)

12.09.2006
ASWAL